

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ASHLEY COX, *et al.*,

Plaintiffs,

V.

Case No. 3:21-cv-253-HEH

ELLEN MARIE HESS, in her official
capacity as Commissioner of the Virginia
Employment Commission,

Defendant.

**DEFENDANT’S REPLY IN SUPPORT OF HER
REQUEST FOR CASE DISMISSAL**

Defendant Ellen Marie Hess, in her official capacity as Commissioner of the Virginia Employment Commission (“Commissioner Hess”), by counsel, submits this reply in support of her Status Report Addressing Compliance with the Adjudication Completion Standards and Request for Case Dismissal.

This case was initiated by Plaintiffs’ Advocates to address the resolution of pending claims for unemployment benefits awaiting adjudication during the height of the COVID-19 pandemic. As a result of a judicial mediation process that occurred over multiple days, the Virginia Employment Commission (“VEC”) and Plaintiffs’ Advocates reached a settlement, which is memorialized by the Settlement Order Entered Pursuant to Judicial Mediation (ECF No. 25) (the “Settlement Order”). The Settlement Order set out an agreed-upon process for the VEC to address its backlog of outstanding unemployment benefits adjudications. It contained concrete targets and benchmarks for the VEC to meet, along with deadlines by which the requirements must be met. At the direction of Commissioner Hess, the VEC took the requirements of the Settlement Order

very seriously, and the entire organization devoted significant resources and manpower to meeting the adjudication completion targets set forth in the Settlement Order. The VEC has met, or exceeded, the requirements in the Settlement Order. As explained in Commissioner Hess's Status Report, the VEC even met the 95% completion standard for Unpaid Claims Awaiting Adjudication almost a month before the Settlement Order's September 6, 2021 deadline.

This case has caused considerable disruption at the VEC and emotional stress for its employees, who have collectively worked tirelessly since the Settlement Order's entry to meet these adjudication targets. In their opposition, Plaintiffs' Advocates do not argue that the VEC has failed to comply with the Settlement Order's adjudication requirements. Rather, they ask this Court to continue to exercise judicial supervision and oversight over the VEC for an additional period of at least another 45 days, perhaps more, to discuss issues not addressed in the settlement agreement memorialized by the Settlement Order.

Conclusion

The Court should dismiss the case because the VEC met, or exceeded, its obligations as set forth in the Settlement Order.

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of August, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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